

REMARKS

The Office Action of December 17, 2008, has been carefully considered.

Claims 1, 6, 12, 16, 18-20, 23 and 28 have been rejected under 35 USC 103(a) as obvious over van der Smissen et al in view of Roy.

Claim 1 has now been amended to recite that the mask, which is in the form of a hood foldable to pocket size that when unfolded can cover the entire head, consists essentially of a bag made of transparent plastic film material and permeable to gases, a filter assembly capable of filtering contaminated air or particles and an exhalation valve forming part of the mask. The "consisting essentially of" language is thought to be well supported by the present specification, in that it excludes any structure inconsistent with the objects of the invention set forth in the specification and inconsistent with the recitation that the hood is foldable to pocket size. Any structure which interferes with foldability to pocket size is excluded by the claim language.

With this in mind, it can be seen that van der Smissen et al discloses a protective hood made of a transparent plastic material including an air filtering device and an exhalation valve. However, the hood also includes an inner half mask which is to be placed over the nose and mouth, which includes the exhalation valve and a breathing inlet, as well as a strap to secure the inner mask behind the head. Clearly, this inner half mask of van der Smissen et al would interfere with folding of the outer hood to pocket size, and is therefore excluded by the present claim language.

The Office action also recognizes that van der Smissen et al does not disclose a circumferential sealing means, but has cited Roy to show a protective suit in which air and water are prevented from entering the suit and utilizes tying means

"selected from the group comprised of, but not limited to laces, drawstrings elastic bands, hook and pile." The Office action states that Roy teaches that these components are well known and commonly used as equivalents.

For the purposes of the invention, however, a drawstring and an elastic band are not equivalent. The claimed invention is specifically directed to an emergency escape mask, meaning that it must be adapted for rapid application. The elastic band is a clear improvement over the drawstring shown in van der Smissen et al as it is a single piece requiring no tightening adjustment. Moreover, the only adjustment necessary after placement of the mask is reduction of inner volume, with movement of the exhalation valve opposite the nose and mouth. This is an especially efficient means of removing exhaled carbon dioxide from the mask.

Accumulation of carbon dioxide is a well known problem in the use of such emergency masks. Prior art solutions have centered around separation of the nose and mouth from the rest of the hood interior, either by use of a mouthpiece or by the use of an inner mask, as disclosed by van der Smissen et al.

Because the mask of the invention does not use a mouthpiece or an inner mask, it can be folded to a small size. Moreover, the use of the elastic band enables both a rapid and a continuous adjustment of the mask to reduce its inner volume and to obtain proper placement of the exhalation valve opposite the nose and mouth, which would be more difficult, if not impossible, with an attached band or with a drawstring as shown in van der Smissen et al.

Further, the claimed arrangement enables a mask in which "one size fits all." With prior art masks, it was necessary to fit the inner components to the size and shape of the head, requiring multiple sizes.

Withdrawal of this rejection is requested.

Claim 2 has been rejected under 35 USC 103(a) over van der Smissen et al in view of Roy and McGuinness, which has been cited to show a protective hood formed from plastic laminates. McGuinness does not, however, cure the defects of van der Smissen et al and Roy, and withdrawal of this rejection is requested.

Claims 8 and 27 have been rejected under 35 USC 103(a) over van der Smissen et al and Roy, and further in view of Richardson which has been cited to show a foldable protective hood with a filter canister connected to the bag by connection means. It is noted that Claim 27 has been amended in the same manner as Claim 1, to recite that the mask consists essentially of the bag, the connection means and the exhalation valve. For this reason, the inner half mask shown in van der Smissen et al is clearly excluded and Richardson does not cure the defects of van der Smissen et al and Roy as it does not show an elastic band or a mask which is foldable. Withdrawal of this rejection is requested.

Claims 9-11 and 13 have been rejected under 35 USC 103(a) over van der Smissen et al and Roy and further in view of Richardson and Wen, Wen being cited to show a filter with an antiseptic agent. However, these claims are considered to be patentable for the reasons discussed above, and withdrawal of this rejection is requested.

Claim 15 has been rejected under 35 USC 103(a) over van der Smissen et al and Roy and further in view of Courtney, which has been cited to show a filter assembly for a face mask that includes an exhalation valve embedded in the filter assembly. Claim 15 is also considered to be patentable for the reasons discussed above, and withdrawal of this rejection is requested.

In view of the foregoing amendments and remarks, Applicant submits that the present application is now in

condition for allowance. An early allowance of the application with amended claims is earnestly solicited.

Respectfully submitted,



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